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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,864	07/24/2001	Ryan Burkhardt	MS#155706.1 (4931)	6214

321 7590 11/17/2004

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

SURYAWANSHI, SURESH

ART UNIT	PAPER NUMBER
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2115

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/912,864

Applicant(s)

BURKHARDT ET AL.

Examiner

Suresh K Suryawanshi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/05/04, 8/19/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-56 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11, 15, 17-18, 20-40, 42-49, 51, 53-54 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Masajiro (JP 09-185494 A¹).

4. As per claim 1, Masajiro teaches

providing a user with access to a text-based script [para 0017; para 0021; para 0030; para 0038; providing a menu facility to a user to modify/create the installation script];

editing, by the user, the text-based script to provide a user-customized, text-based script [para 0017; para 0021; para 0030; para 0038; clearly a user modifies or creates the installation script by editing the script through a menu driven editing program];

¹ Reference cited by examiner in the prior office action (dated 6/16/04).

booting a computer from an operating system image on a computer readable medium [para 0017 and 0018; computer is booted first with an OS installer means where an install menu means started; para 0022; the OS installer is the part of the operating system image called OS Package]; and

performing one or more functions on the computer according to the user-customized, text-based script [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

5. As per claim 23, Masajiro teaches

means for editing, by a user, a text-based script to provide a user-customized, text-based script [para 0017; para 0021; para 0030; para 0038; clearly a user modifies or creates the installation script by editing the script through a menu driven editing program];

means for booting a computer from an operating system image on a computer readable medium [para 0017 and 0018; computer is booted first with an OS installer means where an install menu means started; para 0022; the OS installer is the part of the operating system image called OS Package]; and

means for performing one or more functions on the computer according to the user-customized, text-based script [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

6. As per claim 24, Masajiro teaches

providing a user with access to a text-based script [para 0017; para 0021; para 0030; para 0038; providing a menu facility to a user to modify/create the installation script];

editing, by the user, the text-based script to provide a user-customized, text-based script [para 0017; para 0021; para 0030; para 0038; clearly a user modifies or creates the installation script by editing the script through a menu driven editing program];

booting a computer from a first operating system image on a computer readable medium [para 0017 and 0018; computer is booted first with an OS installer means where an install menu means started; para 0022; the OS installer is the part of the operating system image called OS Package]; and

installing a second operating system image on the computer according to the user-customized, text-based script, wherein booting and installing include only one re-boot of the computer [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means; para 0044; re-boot is performed from installed OS].

7. As per claim 31, Masajiro teaches

a first operating system image with operating system components selected by a user [para 0021 - 0022; the OS installer is the part of the operating system image called OS Package];

—
a second operating system image [para 0021; OS installation medium]; and

a text-based script file customized by a user which interacts with the first operating system image to install the second operating system image on a computer [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

8. As per claim 37, Masajiro teaches

an operating system image [para 0022; the operating system image called OS Package];
and

a text-based script file which interacts with the operating system image to direct recovery from failure of software on the computer [para 0042 – 0045; upon detecting an installation failure, the system is set up so that the install menu may start at the time of starting the system again].

9. As per claims 39 and 46, Masajiro teaches

selecting a subset of operating system components from a plurality of operating system components [para 0017 and 0021; OS installer];

generating a list of files associated with the selected subset of operating system components [para 0031; a file containing the user information; a file containing terminal information; a file containing the service condition]; and

installing the selected subset of operating system components on the destination medium as the operating system image [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

10. As per claim 47, Masajiro teaches

at least one application program which, when executed by one or more processors on a computer, causes the one or more processors to perform acts including allowing a user to select a set of operating system components from the plurality of operating system components and generating a list of files associated with the selected set of operating system components [para 0017 and 0021; OS installer]; and

operating system component modifications which allow the selected set of operating system components to execute as the operating system image [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

11. As per claim 2, Masajiro teaches that performing comprises installing another operating system image on the computer [para 0021; OS installation medium].

12. As per claim 3, Masajiro teaches that the computer includes a mass storage device [inherent to a personal computer to have a mass storage device; para 0001].

13. As per claims 4 and 27, Masajiro teaches that the computer includes a mass storage device [inherent to a personal computer to have a mass storage device; para 0001] and wherein performing comprises formatting the mass storage device [inherent in the process of installing an operating system].

14. As per claim 5, Masajiro teaches that formatting comprises formatting the mass storage device with a file system in a format supported by the operating system image [inherent in the process of installing an operating system].

15. As per claims 6 and 26, Masajiro teaches that wherein the computer includes hardware and [inherent to a personal computer to have a mass storage device; para 0001 and 0031] wherein performing further comprises validating the hardware [inherent in the process of installing an operating system].

16. As per claim 7, Masajiro teaches that prior to installing, validating the hardware using protected mode hardware drivers [inherent in the process of installing an operating system].

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17. As per claims 8 and 28, Masajiro teaches that installing comprises copying one or more files associated with the another operating system image to the computer and integrating the files [inherent in the process of installing an operating system].

18. As per claims 9 and 29, Masajiro teaches that wherein the script identifies a plurality of steps in which the files are copied and integrated and wherein the script identifies the sequence in which the plurality of steps are executed [para 0029 - 0045].

19. As per claims 10 and 35, Masajiro teaches that the computer has a 64-bit architecture [para 0001; a personal computer].

20. As per claim 11, Masajiro teaches that booting and performing are operative on a computer having an architecture of 32-bits or less [para 0001; a personal computer].

21. As per claims 15 and 25, Masajiro teaches that the computer readable medium includes the script [para 0017; installation script].

22. As per claim 17, Masajiro teaches that performing comprises recovering the computer from failure of software [para 0042 – 0045; upon detecting an installation failure, the system is set up so that the install menu may start at the time of starting the system again].

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23. As per claim 18, Masajiro teaches that the software includes an operating system or an application program [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

24. As per claim 20, Masajiro teaches that editing the user-customized, text-based script so that performing installs another operating system image [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

25. As per claims 21 and 44, Masajiro teaches that one or more computer readable media having computer-executable instructions for performing the method recited in claim 1 [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

26. As per claims 22 and 45, Masajiro teaches that the operating system image on the computer resulting from the computerized method of claim 2 [para 0021; OS installation medium].

27. As per claim 30, Masajiro teaches that the computer includes the computer readable medium [para 0001; inherent to a personal computer].

28. As per claim 32, Masajiro teaches that each of the operating system components comprises at least one file [inherent as the base operating boot code will be saved as a file].

29. As per claims 33 and 40, Masajiro teaches that the operating system components include hardware drivers [inherent to an operating system to include hardware drivers].

30. As per claim 34, Masajiro teaches that the second operating system image includes a plurality of operating system components [inherent to the complete operating system] and wherein the first operating system image includes a subset of the plurality of operating system components [clearly the OS installer will have a subset of the plurality of operating system as it is used to install a variety of operating system].

31. As per claim 36, Masajiro teaches that the script file is operative on a computer having an architecture of 32-bits or less [para 0001; a personal computer].

32. As per claim 38, Masajiro teaches that the software includes another operating system image [para 0021; OS installer and OS installation medium containing the complete set of operating systems and additional programs].

33. As per claim 42, Masajiro teaches that installing further comprises integrating the files on the destination medium [inherent in the process of installing an operating system].

34. As per claim 43, Masajiro teaches that selecting additional operating system components, and wherein installing comprises installing the additional operating system components on the destination medium [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

35. As per claim 48, Masajiro teaches that the system further comprising a text-based script for directing performance of one or more functions by the operating system image [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

36. As per claim 49, Masajiro teaches that the functions include installing an operating system on another computer [para 0017, 0018, 0033, 0042 and 0047; the required operating system and additional programs will be installed according to the installation script that is customized by a user through install menu means].

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37. As per claim 51, Masajiro teaches that the set of operating system components is a subset of the plurality of operating system components [clearly the OS installer will have a subset of the plurality of operating system as it is used to install a variety of operating system].

38. As per claim 53, Masajiro teaches that the operating system component modifications include writing state information to volatile memory [inherent to the system].

39. As per claim 54, Masajiro teaches that the application program, when executed, further causes the one or more processors to perform acts including generating the operating system image [inherent to the system].

40. As per claim 56, Masajiro teaches that the means for editing comprises an application program [para 0017 – 0018; OS installer with install menu means].

Claim Rejections - 35 USC § 103

41. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically taught or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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42. Claims 12-14, 16, 19, 41, 50, 52 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masajiro (JP 09-185494 A¹).

43. As per claim 12, Masajiro discloses the invention substantially. Masajiro does not teach expressly about setting a flag and responsive to the set flag, enabling functionality within the operating system image. But clearly, Masajiro teaches customizing the operating system according to an installation script. Thus, there has to be some sort of flag setting to indicate the operating system of various enabling and disabling certain functionalities. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize flag setting to enable and disable certain functionalities of an operating system according to the customization script.

44. As per claim 13, Masajiro teaches that allowing user mode software to perform configuration responsive to the set flag [para 0018 and 0044; install menu means].

45. As per claim 14, Masajiro teaches that wherein functionality includes loading configuration information into volatile memory [inherent in the process of installing an operating system].

46. As per claim 16, Masajiro discloses the invention substantially. Masajiro does not teach expressly about having the script in remote from the computer readable medium. However, a routineer would know that it is possible to have such an script in a remote computer and through

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network capability one can download to the local computer. Therefore, it would have been obvious to one of ordinary skill in the art to store the script in a remote computer and this way allowing a number of computers to access the script.

47. As per claim 19, Masajiro discloses the invention substantially. Masajiro does not teach expressly about the computer readable medium is accessible by the computer via a network. However, a routineer in the art would know that this is quite possible and it is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the readable medium accessible by a computer via a network and this way allowing a number of computers to access the script.

48. As per claims 41 and 55, Masajiro discloses the invention substantially. Masajiro does not teach about creating at least one hive. However, a routineer in the art would know about creation of hive as it is known in the art and it will speed up the process. Therefore, it would have been obvious to one of ordinary skill in the art to utilize the process of creating hives for faster installation process.

49. As per claim 50, Masajiro discloses the invention substantially. Masajiro does not expressly teach about remotely troubleshooting another computer. But Masajiro clearly discloses about recovering the present computer on which the installation was done. However, a routineer in the art would know that it is possible to have such an scripts in a remote computer and through network capability one can download to the local computer and perform the

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troubleshooting. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use method of customized installation to recover workstation from software failure remotely.

50. As per claim 52, Masajiro discloses the invention substantially. Masajiro does not expressly teach about allowing the user to add at least one of the additional operating system components to the selected set of operating system components. However, Masajiro clearly mentions that the invention uses an OS package and a routineer in the art would know how to add additional operating system components in the base operating system package. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the user to be able to add additional operating system components.

Response to Arguments

51. Applicant's arguments with respect to claims 1-56 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

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A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suresh K Suryawanshi whose telephone number is 571-272-3668. The examiner can normally be reached on 9:00am - 5:30pm.

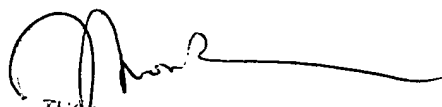
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sks

November 8, 2004


THOMAS LEE
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